

**REMARKS**

Claims 23-97 and 104-107 are pending in the application.

Claims 23-97 and 104-107 have been rejected.

Claims 23, 37, 42, 44, 60, 65, 67, 83, 88, 90, 91, 92, 96, 97 have been amended.

**Objection under MPEP 608.01**

The Examiner has objected to Claims 45-90 under MPEP 608.01, asserting that the terms “computer-readable medium” and “computer readable storage medium” lack clear support or antecedent basis within the specification. Applicants most respectfully traverse the assertion that “computer-readable medium” and “computer readable storage medium” lack clear support or antecedent basis within the specification. Specifically, Applicants respectfully submit that a person having ordinary skill in the relevant art would have recognized at the time that the application was filed that “recordable [storage] media such as floppy disks and CD-ROM” are non-limiting examples of the terms “computer-readable medium” and “computer readable storage medium”. However, to expedite prosecution, Applicants have amended the paragraph beginning at page 44, line 12 to address the Examiner’s concern.

**Rejection of Claims under 35 U.S.C. § 101**

Claims 23, 91, 96 and 97 stand rejected under 35 U.S.C. § 101 as non-statutory subject matter. Specifically, the Office Action asserts that an apparatus comprising a communication server or means (i.e, software) does not include any functional structure. Applicants have amended Claim 23 to recite “a processor; and a communication server, executed by said

processor, which is configured to communicate...” Similarly, Claims 91, 96 and 97 have been amended to recite “a computer readable medium” and “means, stored in said medium”.

Claims 42 and 88 are rejected on the basis of assertions that “A method for communicating using a communication channel comprising: issuing a command to the communication channel” and “A computer program product comprising: issuing instructions configured to issue a command to the communication channel” do “not produce a useful, concrete and tangible result.” *See* Office Action, p.3. Applicants respectfully submit that this assertion, without more, does not state a *prima facie* case of rejection under 35 U.S.C. § 101. As will be appreciated, “The examiner bears the initial burden ... of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. Only after USPTO personnel identify and explain in the record the reasons why a claim is for an abstract idea with no practical application, then the burden shifts to the applicant to either amend the claim or make a showing of why the claim is eligible for patent protection. *See, e.g., In re Brana*, 51 F.3d 1560, 1566, 34 USPQ2d 1436, 1441 (Fed. Cir. 1995). The present Office Action makes no showing from the record on whether the claimed subject matter is useful, concrete, or tangible.

Applicants respectfully submit that the claimed subject matter produces a concrete and tangible result in the form of “issuing a command to the communication channel.” *Black’s Law Dictionary* defines tangible as “capable of being possessed or realized” and “capable of being understood”. *Black’s Law Dictionary*, 7<sup>th</sup> Ed., 1999, p.1468. Applicants respectfully submit that “issuing a command to the communication channel” and “issuing instructions” are both “capable

of being possessed or realized” and “capable of being understood”, for the simple reason that a recipient is able to discern whether a command or instructions had issued. Similarly, the utility of such a result is explained at length in the present Application. Because the present Office Action makes no showing from the record to support a *prima facie* case as to whether the claimed subject matter is useful, concrete, or tangible, Applicant respectfully request that the Examiner withdraw the rejection of claims 42 and 88 under 35 U.S.C. § 101.

*Rejection of Claims under 35 U.S.C. § 112*

Claims 23-36, 44, 65-67 and 104-105 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicants have amended claims 23, 44, 65 and 67 to address the Examiner’s concerns, and so respectfully submit that claims 23-36, 44, 65-67 and 104-105 particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

*Rejection of Claims under 35 U.S.C. § 102*

Claims 23-107 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Beck, et al., U.S. Patent No. 6,332,154 (Beck).

While not conceding that the cited reference qualifies as prior art, but instead to expedite prosecution, Applicants have chosen to respectfully disagree and traverse the rejection as follows. Applicants reserve the right, for example, in a continuing application, to establish that

the cited reference, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

As will be appreciated, “[a] ... claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegall Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully submit that the Office Action fails to meet the criteria thus set forth. Applicants’ reasoning as to these failings are now set forth.

In this regard, independent claim 23, as amended, now recites (with emphasis added):

23. An apparatus comprising:

a processor; and

**a communication server**, executed by said processor, which is configured to

communicate with a communication channel by virtue of being **configured to process an incoming communication** received from the communication channel via a channel driver communicatively coupled to the communication channel, wherein

the channel driver is configured according to a media type of the communication channel,

the media type of the communication channel is one of a plurality of media types, and

the channel driver is configured to communicate with any one of the plurality of media types, and

cause an outgoing communication to be sent to the communication channel, wherein

the communication server is further configured to communicate

independently of the media type of the communication channel by virtue of being configured to communicate with the communications channel via the channel driver.

As will be appreciated, amended independent claims 65, 88 and 96 recite, at least in part, substantially comparable limitations.

Independent claim 42, as amended, now recites:

42. A method for communicating using a communication channel comprising:  
***issuing an outgoing command*** to the communication channel, wherein  
the issuing the command is performed by a channel driver,  
the channel driver is configured to communicate with the communication channel according to a media type of the communication channel,  
the media type of the communication channel is one of a plurality of media types,  
and  
the channel driver is configured to communicate with any one of the plurality of media types.

As will be appreciated, amended independent claims 37, 45, 60, 68, 83 and 91 recite, at least in part, substantially comparable limitations.

Independent claim 44, as amended, now recites:

44. A method comprising:  
***receiving an incoming event*** from a communication channel, wherein

the receiving is performed by a channel driver,  
the channel driver is configured to communicate with the communication channel  
according to a media type of the communication channel,  
the media type of the communication channel is one of a plurality of media types,  
and  
the channel driver is configured to communicate with any one of the media types;  
accessing a database to determine an event response to in response to the receiving of the  
event, wherein  
the accessing is performed by a communication server,  
the communication server is configured to operate independently of the media  
type by virtue of being configured to receive the event from the communications  
channel via the channel driver; and  
performing the event response under control of the communication server.

As will be appreciated, amended independent claims 67, 90 and 97 recite, at least in part,  
substantially comparable limitations.

By contrast to the foregoing, Beck, which is concerned with the provision of a media-  
independent self-help modules within a multimedia communication-center customer interface,  
discloses:

“[a] ... multimedia call center (MMCC) operating through an operating  
system, a client-specific self-help wizard is provided for active clients and  
updated periodically with information related to client transaction history with the  
MMCC. A connected client is presented by the wizard with a selective media  
function through which the client may select a media type for interaction and  
help, and the MMCC will then re-contact the client through the selected media.  
The client, for example, may select IP or COST telephony, and the MMCC will  
place a call to the client to a number or IP address listed for the client, and

interactivity will then be through an interactive voice response unit. Help information specific to a client is updated in the client's wizard periodically according to ongoing transaction history with the MMCC. The wizard may also monitor client activity with the wizard and make reports available to various persons.” (Beck, Abstract)

As can clearly be seen, Beck fails to show, teach or even suggest, nor is Beck even concerned with, a system in which a channel driver allows a communication server to communicate with a communication channel in a manner that is independent of the media type of the communication channel by virtue of being configured to use the channel driver to communicate with the communication channel, where the media type of the communication channel is one of a plurality of media types and the channel driver is configured to communicate with any of the media types. Applicants respectfully submit that the Office Action does not establish the presence of these limitations in Beck.

Many Citations of Beck Are Concerned with the *Customer Side* of the System, not the *Server*

Side

Applicants’ invention concerns the facilitation of the duties of an agent that performs their duties, for example, at an “in-house” call center (an “agent”). This agent performs their duties on the side of a communication system operated by an organization (e.g., that portion of a communication system for supporting customers, clients, donors or the like, run by a company providing services, merchandise, receiving donations, supporting a given cause and so on; the

“agent side”), not the side of the communication system used by those seeking support, information and/or the like (e.g., customers, clients, donors or the like; the “customer side”).

However, while some features of Beck are concerned with the agent side of such systems, many of the features of Beck are concerned with the customer side thereof. Thus, the combination of the various cited portions of Beck (and Beck generally) leads to two problems: (1) the features of Beck concerned with the customer side fail to teach elements concerning the agent side of such systems, as required by the independent claims, and (2) the various features of Beck (being from both the agent side and the customer side) cannot together teach any invention related to a single side of any sort of server, regardless of the functionality provided by the server in question.

Examples of portions of Beck concerned with the customer side are column 17, lines 22-40, and column 17, lines 40-52. There is at least one element of each of the independent claims, such that the cited features of Beck fail in this regard. For example, Beck discloses:

Section 137 presents media options for clients seeking customer service from the enterprise. These options are, in a preferred embodiment, presented in a customized or personalized fashion within *the client's window 133* as was described above. Therefore, each *client* patronizing the enterprise may access a version of window 133 that differs in look and functionality than that of another *client*. In this example, service section 137 contains options for e-mail, chat program, fax program, a self-help wizard, and a voice wizard. Other media types may be added or subtracted from *the client's window 133* depending on any of several criteria. Personalization of widow 133 takes into account *client* information as stored in CINOS database 75, service-agent media availability and preferences, and perhaps any overriding enterprise rules. Unless and until a *client* is identified there are typically no options presented to the *client* for continuing a transaction with the enterprise. (Beck, column 17, lines 22-40.) (Emphasis Added.)



For an identified *client*, by selecting the e-mail option, the *client's* preferred e-mail program may be activated for the purpose of sending a message to or soliciting a reply from a service agent. By selecting chat program, the *client* may be launched into a scheduled service seminar featuring many *clients* interacting with a service expert regarding a certain subject. One enterprise rule regarding section 137 may be that there is no telephone or I-phone media option for customer service for a client in the absence of an ongoing project with the particular customer. In this sense an ongoing project includes any unfinished business that the *client* is involved in with the enterprise. (Beck, column 17, lines 40-52.) (Emphasis Added.)

It is clear from the italicized portions of these citations, referring to the *client* and *the client's window*, that these citations refer to the customer side of the invention disclosed in Beck, not the agent side (as in the claimed invention).

For at least these reasons the Applicants request that the Examiner withdraw this § 102 rejection of the independent claims.

Element of Issuing Command to *Outgoing* Channel Not Taught

Moreover, Beck fails to teach all the elements of the claimed invention notwithstanding the foregoing infirmities. Claims 23, 37, 42, 44-45, 60, 65, 67-68, 83, 88, 90-91 and 96-97 each recite a limitation that either explicitly or implicitly requires a channel driver (or comparable element) issue (or receive) a command (or event or their equivalents) to (or from) an *outgoing* (or *incoming*) communication channel. For example, the interface command module 341 discussed at column 48, lines 15-30 of Beck fails to teach such elements. To wit, the interface command module 341 interfaces with other CINOS systems and not to an *outgoing* (nor *incoming*) channel. Column 48, lines 15-30 of Beck states:

An interface command module 341 may be installed for the purpose of accomplishing an *interface to other CINOS systems such as routing, messaging, out-dialing, automated services, and so on*. A display function module 343 allows an interactive picture of the newly created thread, as organized and built via modules 339 and 337, to be displayed on a PC/VDU such as the researcher's PC 322. The display may, in one embodiment, appear as an actual tree or thread connecting various interactive icons representing dialog and associated hard media. In another embodiment, the display may be a simple list of interactive text titles. The nature of interaction with the display is such that by manipulating the interactive icons with a pointer device, or by entering certain keyboard commands, full text and hard media may be accessed and viewed by researcher 320 from PC 322. (Emphasis Added.)

For at least this reason Applicants' request that the Examiner withdraw this § 102 rejection against independent claims 23, 37, 42, 44-45, 60, 65, 67-68, 83, 88, 90-91 and 96-97

Thus, Applicants respectfully request the withdrawal of the § 102 rejection for at least the reason that many aspects of Beck are concerned with the customer side of the invention, while the claimed invention is directed solely to the agent side of such systems. Applicants further respectfully assert that many of the claims rejected in light of Beck are allowable for other infirmities of the disclosure of Beck.

Reply to the Examiner's Response to Arguments

In the present Office Action, the Examiner has courteously responded to this argument. The Office Action asserts,

In response to point (1), Beck teaches a wizard comprising drivers for allowing communication between a client and CINOS server system. The communication between the client and CINOS server system is via communication connection (e.g., channels 23, 25, fig. 1). The communication with the communication connection is in a matter independent of the media type of the communication channel (col. 60, lines 36-45; col. 62, lines 26-28), where the media type of the communication connection is one of a plurality of media types (col. 8, lines 1-5; col. 7, lines 60-63) and the driver is configured to communicate with any of the media types (col. 62, line 64-col. 63, line 4). This was already addressed in the Office Action mailed on 1/25/2007.

See Office Action p.17. Applicants respectfully submit that the citation to col. 60, lines 36-45, is raised with respect to the limitation, “a communication server, executed by said processor, which is configured to communicate with a communication channel by virtue of being configured to process an incoming communication received from the communication channel via a channel driver communicatively coupled to the communication channel.” The cited text of col. 60, lines 36-45 discloses,

As previously described, wizard 423 comprises a plurality of functional modules designed to provide interface with *various CINOS automated systems* comprising a variety of supported media types. In this way, a client may select a desired media in which an automated response may be reviewed or an interactive display can be viewed. In a preferred embodiment, such responses may arrive to a client via a data connection through the client's system, or via a client-maintained COST connection such as a normal telephone. Such flexibility affords a client many options for obtaining and receiving automated service.

See Beck at col. 60, lines 36-45 (emphasis added). Applicants respectfully submit that they have claimed a server at Claim 23. As is shown, the cited reference teaches a client that

communicates with *various CINOS automated systems*. The Office Action attempts to finesse this difference between the subject matter of Claim 23 and the cited art by pointing to the existence of a server (77), among some 5 five servers and five clients in Figure 1.

Even if the cited text teaches, “configured to communicate with a communication channel by virtue of being configured to process an incoming communication received from the communication channel via a channel driver communicatively coupled to the communication channel”, which Applicants do not concede, the cited text certainly does not teach “a communication server, executed by said processor, which is configured to communicate with a communication channel by virtue of being configured to process an incoming communication received from the communication channel via a channel driver communicatively coupled to the communication channel.” The cited text teaches nothing about a server and shows no indication of any connection to a server (77), the existence of which is discussed by the Office Action. The limitation of Claim 3 clearly articulates a relationship between a server and the features for which it is configured. Even if the cited text teaches, “configured to communicate with a communication channel by virtue of being configured to process an incoming communication received from the communication channel via a channel driver communicatively coupled to the communication channel”, which Applicants do not concede or comment upon, the cited text teaches no relationship between Applicant’s recited server and the recited functionality. For at least this reason, Applicants respectfully submit that the Office Action fails to present a *prima facie* case of anticipation of independent claim 23.

The Office Action further asserts,

In response to point (2), Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant fails to point out what elements in the language of the independent claims are lacking in the Beck reference.

*See* Office Action p.17. Applicants note that the Examiner has noted point (2) as being "Beck fails to teach elements concerning the agent side of such systems as required by the independent Claim." Applicants respectfully submit that they have answered this objection with respect to Claim 23, in which the "agent" side is the "server" side, as discussed above. Applicants respectfully submit that they have answered the issue of the server side with sufficient specificity.

The Office Action further asserts,

In response to point (3), applicant's arguments that the references fail to show certain features of applicant's application, it is noted that the features upon which applicant relies (i.e., a channel driver issue a command to an outgoing communication channel) are not recited in the rejected claims... Noted that it is unclear what are "comparable element" and "or event or their equivalents" in the language of the claims recited in claims 23, 37, 42, 44-45, 60, 65, 67, 68, 83, 88, 90-91 and 96-97.

*See* Office Action p.18. Applicant's argument more specifically states

Claims 23, 37, 42, 44-45, 60, 65, 67-68, 83, 88, 90-91 and 96-97 each recite a limitation that either explicitly or implicitly requires a channel driver (or

comparable element) issue (or receive) a command (or event or their equivalents) to (or from) an *outgoing* (or *incoming*) communication channel. For example, the interface command module 341 discussed at column 48, lines 15-30 of Beck fails to teach such elements. To wit, the interface command module 341 interfaces with other CINOS systems and not to an *outgoing* (nor *incoming*) channel.

Applicants respectfully submit that Claim 23 explicitly recites "...communicate with a communication channel by virtue of being configured to... cause an outgoing communication to be sent to the communication channel..." Similarly, Claim 37 recites "receiving an incoming event via a channel driver." Claim 42 recites "issuing an outgoing command to the communication channel." Claim 44 recites "receiving an incoming event from a communication channel" and Claim 45 similarly recites "configured to process an incoming communication received from the communication channel". Similarly, Claim 60 recites "the receiving instructions are configured to receive an incoming event from the communication channel." Claim 65 recites "issuing instructions configured to issue an outgoing command to the communication channel". Claim 67 recites "receiving instructions to receive an incoming event from a communication channel." Claim 68 recites "the incoming instructions are configured to process an incoming communication received from the communication channel via a channel driver." Claim 83 recites "receiving instructions configured to receive an incoming event from the communication channel." Claim 88 recites, "issuing instructions configured to issue an outgoing command to a communication channel." Claim 90 recites "receiving instructions configured to receive an incoming event from a communication channel". Claim 91 recites "receiving means, stored on said medium, for receiving an incoming event from the communication channel." Claim 96 recites "issuing means, stored on said medium, for issuing an outgoing command to the communication channel." Claim 97 recites "for receiving an

incoming event from a communication channel.” Applicants respectfully submit that each enumerated claim requires a channel driver (or comparable element) issue (or receive) a command (or event or their equivalents) to (or from) an *outgoing* (or *incoming*) communication channel.

For at least these reasons, Applicants respectfully submit that the Office Action fails to present a *prima facie* case of anticipation of independent claims 23, 37, 42, 44-45, 60, 65, 67-68, 83, 88, 90-91 and 96-97, and all claims dependent upon them, and that they are in condition for allowance. Applicants therefore request the Examiner’s reconsideration of the rejection, and so withdrawal thereof, of those claims.

**CONCLUSION**

Applicants submit that all claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to deposit account 502306.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. G. Campbell III', with a long horizontal flourish extending to the right.

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